

## ARNOLD &amp; PORTER LLP

JUN 17 2008

**MEMO ENDORSED**  
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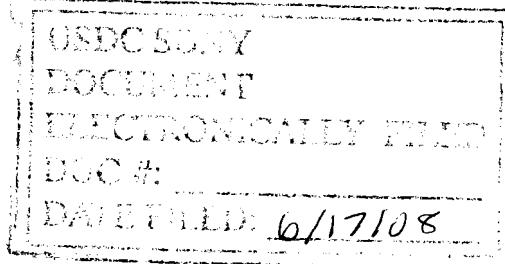
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June 17, 2008

**VIA MESSENGER**

The Honorable Richard M. Berman  
 United States District Judge  
 Southern District of New York  
 500 Pearl Street, Room 650  
 New York, New York 10007

Re: Gucci America, Inc. v. Jennifer Gucci, et al., 07 cv 6820 (RMB) (JCF)

Dear Judge Berman:

We represent plaintiff Gucci America, Inc. ("Gucci") in the above entitled action.

We just received a call from Your Honor's clerk indicating that the Court, at a conference in this matter this morning, dismissed this action for failure of the parties to appear at the conference. We understand that the Court, however, will consider restoring the matter for good cause shown. We have requested an immediate copy of the transcript of today's proceeding from Southern District Court Reporters, as Your Honor's clerk suggested, but have been advised that the transcript may not be available until the end of the day. As we wanted the Court to know right away that our failure to appear at today's conference was unintentional and the result of a terrible misunderstanding on our part, we respectfully submit this letter application to restore the case to the active calendar.

As I informed Your Honor's clerk, it was our clear understanding, and apparently that of defendants' counsel as well, that today's conference had been cancelled. At the conference held on April 29, 2008, Your Honor set dates for pre-trial submissions (June 3, 2008 for plaintiff and June 10, 2008 for defendants) and then set a conference for today, June 17, 2008 at 10:30 am. At the April 29 conference, Your Honor stated that the June 17 conference was for the purpose of setting the trial date in this action. The relevant portion of the April 29, 2008 transcript is attached, and as the Court will note, on two occasions the Court indicated that the purpose of the June 17 conference was to set a trial date.

Thereafter, we received a request from new counsel for the Jennifer Gucci defendants to consent to their application to the Court to reset the pre-trial submission dates so that they could have more time to prepare for trial. We subsequently signed a stipulation proposing to reset those dates, and further requesting that the June 17 conference be reset to July 1, 2008. However, in its May 28, 2008 memo endorsement of the stipulation, the Court directed that all pre-trial submissions be made simultaneously on June 17, 2008, and struck the proposed resetting of the June 17 conference, instead ordering that "Trial begins on Monday, June 30, 2008 @ 9:00 am." See copy attached. As the Court had previously indicated that the June 17 conference was for the purpose of setting a trial date, we understood the Court's order to mean

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that the June 17 conference would no longer be needed, as a trial date had now been set, and all pre-trial submissions were now due on June 17, the date of the originally scheduled conference. Further, as indicated above, it appears that all counsel understood the order in that way, as no counsel appeared for this morning's conference.

This is an extremely important matter for the plaintiff, as evidenced by the fact that a Temporary Restraining Order has been in place since August 2007. It was obviously not the intention of the plaintiff to ignore any orders or directives of the Court or to abandon this case. To the contrary, the parties have been diligently preparing their pre-trial submissions for filing later today. The failure to appear at today's conference was simply due to our unfortunate misunderstanding of the Court's May 28, 2008 order. We are prepared to move ahead with the trial of this action on June 30, 2008 and will appear before the Court at any time prior thereto to discuss the issues referred to in this letter or any other issues the Court may wish to address.

We respectfully ask that for good cause shown, this Court restore this action to the active calendar. We thank the Court for its consideration.

Respectfully submitted,

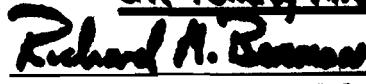
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By:

  
Louis S. Ederer

cc: R. Kevin Fisher, Esq. (via e-mail)  
Howard Moss Rogatnick, Esq. (via e-mail)  
Kevin J. Harrington, Esq. (via email)

*No problem. The reason for  
today's conference, among  
others, was the need to  
reschedule the start of trial  
to Tuesday, July 1, 2008 @ 9:00.  
(See deletion on 5/28/08 Stipulation).  
CASE RESTORED. Be sure submissions  
are timely made.*

SO ORDERED  
Date: 6/17/08   
Richard M. Berman, U.S.D.J.